



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Sirius XM Radio Inc.,

Plaintiff,

-against-

Aura Multimedia Corporation et al.,

Defendants.

1:21-cv-06963 (GHW) (SDA)

ORDER

**STEWART D. AARON, United States Magistrate Judge:**

It is hereby Ordered that Plaintiff shall file its motion for default judgment no later than January 26, 2022. Plaintiff's motion shall include the elements of each asserted cause of action and shall demonstrate how Plaintiff's allegations establish Defendants' liability as to each. *See, e.g., LG Capital Funding, LLC v. FLASR, Inc.*, 422 F. Supp. 3d 611, 623 (E.D.N.Y. 2018) ("With respect to liability, a defendant's default does no more than concede the complaint's factual allegations; it remains the plaintiff's burden to demonstrate that those uncontroverted allegations, without more, establish the defendant's liability on each asserted cause of action.").

In addition, Plaintiff shall file Proposed Findings of Fact and Conclusions of Law concerning all damages and any other relief that Plaintiff seeks. The submission shall contain a concluding paragraph that succinctly summarizes what damage amount (or other monetary relief) is being sought, including the exact dollar amount. Plaintiff's Proposed Findings of Fact should specifically tie the proposed damages figure to the legal claim(s) on which liability has been established; should demonstrate how Plaintiff arrived at the proposed damages figure; and should be supported by one or more affidavits, which may attach any documentary evidence establishing the proposed damages. Each Proposed Finding of Fact shall be followed by a citation to the

paragraphs of the affidavit(s) and or page of documentary evidence that supports each such Proposed Finding.<sup>1</sup>

In lieu of conclusions of law, Plaintiff may submit a memorandum of law setting forth the legal principles applicable to Plaintiff's claim or claims for damages (including but not limited to the legal basis for any claim for interest or attorneys' fees). Plaintiff's papers must include an affidavit from someone with personal knowledge, setting forth the facts which establish that the Court has both personal jurisdiction over the Defendants, and jurisdiction over the subject matter.

The Court hereby notifies the parties that it may conduct the damages inquest based solely upon the written submissions of the parties. *See Bricklayers & Allied Craftworkers Local 2, Albany, N.Y. Pension Fund v. Moulton Masonry & Const., LLC*, 779 F.3d 182, 189 (2d Cir. 2015) (quoting *Action S.A. v. Marc Rich & Co.*, 951 F.2d 504, 508 (2d Cir. 1991)); *Cement & Concrete Workers Dist. Council Welfare Fund, Pension Fund, Annuity Fund, Educ. & Training Fund & Other Funds v. Metro Found. Contractors Inc.*, 699 F.3d 230, 234 (2d Cir. 2012) (citation omitted). To the extent that any party seeks an evidentiary hearing on the issue of damages, such party must set forth in its submission the reason why the inquest should not be conducted based upon the written submissions alone, including a description of what witnesses would be called to testify at a hearing and the nature of the evidence that would be submitted.

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<sup>1</sup> Any request for attorneys' fees must be supported by contemporaneous time records showing, for each attorney, the date of service, the hours expended, and the nature of the work performed. Counsel should also provide the number of years they have been admitted to the bar and their hourly rate. Finally, the Conclusions of Law shall include a paragraph or paragraphs setting forth the legal basis for any requested award of attorneys' fees, including why, if applicable, the number of attorneys involved are entitled to fees.

It is further Ordered that, no later than January 26, 2022, Plaintiff shall serve its motion papers, along with a copy of this Order, on Defendants and file proof of service on the docket. For the reasons set forth in the Court's December 4, 2021 Order, Plaintiff may serve Defendant Burton via email. (*See* 12/4/2021 Order (authorizing alternative service on Defendant Burton).)

Defendants shall send to Plaintiff's counsel and file with the Court their responses, if any, to Plaintiff's submissions no later than February 16, 2022.

**SO ORDERED.**

Dated: New York, New York  
January 5, 2022

A handwritten signature in black ink, appearing to read "Stewart D. Aaron", is written above a horizontal line.

STEWART D. AARON  
United States Magistrate Judge